

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TRIPLE B CORPORATION, *et al.*,
Plaintiffs,
v.
JON WELLER, *et al.*,
Defendant

No. C08-1262RSL

ORDER DENYING PLAINTIFF'S DISPOSITIVE MOTION WITHOUT PREJUDICE

This matter comes before the Court on “Plaintiff’s Motion for Default and Default Judgment or, in the Alternative, for Summary Judgment Against Defendants.” Dkt. # 5. Defendants, the officers and owners of Village Food Markets, Inc., were served with the summons and complaint on or before April 6, 2009. Defendants have not appeared or answered. Defendant Peter Ferren has contacted plaintiff’s counsel regarding the claims asserted herein, but neither defendant responded to the pending motion.

Regardless of whether plaintiff is seeking judgment by default or by summary disposition of its claims, it seeks a “judgment for affirmative relief” as that phrase is used in Fed. R. Civ. P. 55(a). Before such relief can be granted, defendants’ default must be entered by the Clerk of Court. No default has yet been entered against either defendant. Plaintiff’s motion is therefore DENIED without prejudice.

**ORDER DENYING PLAINTIFF'S
DISPOSITIVE MOTION WITHOUT PREJUDICE**

1 Dated this 27th day of January, 2010.

2 

3 Robert S. Lasnik
4 United States District Judge